

## **CONTRACT FOR AUDITS OF DOCUMENTS AFTER PAYMENT OR POSTING**

This contract is between the Texas Comptroller of Public Accounts (the "Comptroller's office") and \_\_\_\_\_ (the "contracting agency").

### **Part 1. Payment and USPS Documents.**

#### **Section 1.01. Authorization of Post-Payment Audits.**

The Comptroller's office may audit a payment or USPS document of the contracting agency after the comptroller has prepared a warrant or initiated an electronic funds transfer according to the document. The Comptroller's office may specify the criteria for determining the payment and USPS documents that will be audited on a post-payment basis. When the Comptroller's office conducts a post-payment audit of a document, the Comptroller's office must audit the document with at least the same level of scrutiny as the Comptroller's office would have used during a pre-payment audit of the document.

The Comptroller's office shall periodically notify the contracting agency about the results of post-payment audits of the agency's payment and USPS documents.

#### **Section 1.02. Sampling.**

The Comptroller's office may use generally recognized sampling techniques to conduct post-payment audits of the contracting agency's payment and USPS documents if the Comptroller's office determines the techniques would be cost-effective and promote greater efficiency in processing the documents. When the Comptroller's office uses those techniques, the Comptroller's office may project the results from the sample to similar types of unaudited documents from the contracting agency. The Comptroller's office may use the projection to estimate the amount of unaudited documents that were improperly paid. The Comptroller's office may submit that estimate to the governor, the state auditor and the Legislative Budget Board.

#### **Section 1.03. Invalid Payments.**

If the Comptroller's office determines, through a post-payment audit of a payment or USPS document, that the payment was invalid, then the Comptroller's office may do one or more of the following: (1) implement procedures to ensure that similar invalid payments are not subsequently made for the contracting agency; (2) report to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor and the Legislative Budget Board the results of the audit; (3) require the contracting agency to obtain a refund of the payment from the payee; (4) in the case of an interagency payment, reverse the invalid payment or require the contracting agency or the state agency who received the invalid payment to reverse it; (5) terminate this contract according to Section 3.06; or (6) reduce the contracting agency's remaining appropriations by the amount of the invalid payment.

#### **Section 1.04. Approval and Certification of Payment and USPS Documents.**

The chief fiscal officer of the contracting agency shall ensure that each individual who is authorized or designated to approve and certify the agency's payment and USPS documents understands the legal significance and potential legal consequences of the statements below.

Whenever an individual releases a batch of payment documents for processing in USAS, the release constitutes the individual's approval and certification of those documents. The individual is responsible for the truth and accuracy of the following statement with respect to each document in the batch:

I approve each purchase, travel and payroll document in this batch. Employees at my state agency have determined that each document complies with applicable law, including the General Appropriations Act (GAA) and the rules of the Texas Comptroller of Public Accounts. For each purchase or travel document, employees at my state agency have determined that: (1) the goods and services covered by the document comply with the requirements of the contracts under which they were purchased; and (2) the invoices for the goods and services are correct. For each transaction included in a travel document, employees at my state agency have determined that the information included in the transaction has been approved by the claimant. For each payroll document, employees at my state agency have determined that: (1) the payroll is correct and unpaid; and (2) any salary supplementation report required by the GAA to be filed with the Comptroller's office and the secretary of state has been filed. My state agency has authorized me to make this statement for the agency, and I accept responsibility for it.

When an individual releases a batch of USPS documents into USPS for processing, the release constitutes the individual's approval and certification of those documents. The individual is responsible for the truth and accuracy of the following statement with respect to each document in the batch:

I approve each document in this batch. Employees at my state agency have determined that each document complies with applicable law, including the General Appropriations Act (GAA) and the rules of the Texas Comptroller of Public Accounts. For each document that involves the payment of compensation to a state officer or employee, employees at my state agency have determined that: (1) the payroll is correct and unpaid; and (2) any salary supplementation report required by the GAA to be filed with the Comptroller's office and the secretary of state has been filed. For each document that does not involve the payment of compensation to a state officer or employee, employees at

my state agency have determined that: (1) the goods and services covered by the document comply with the requirements under which they were purchased; and (2) the invoices for the goods or services are correct. For each transaction that involves the reimbursement of a meal expense incurred during non-overnight travel, employees at my state agency have determined that the information included in the transaction has been approved by the claimant. My state agency has authorized me to make this statement for the agency, and I accept responsibility for it.

If the individual does not want to make any of the preceding statements about a batch, then the individual may not release the batch. There is no procedure for an individual to release a batch without being bound to the statement.

The chief administrative officer of the contracting agency shall ensure that the agency's chief fiscal officer complies with the chief fiscal officer's obligations under this section.

The failure or refusal of the chief administrative officer or the chief fiscal officer to comply with the respective officer's obligations under this section does not relieve any individual from responsibility for the truth and accuracy of the statements above.

#### **Section 1.05. Approval and Certification of Payment and USPS Documents under Accounting Services Contracts.**

Pursuant to 23 Texas Register 795 (1998) (to be codified at 34 TEXAS ADMINISTRATIVE CODE, Section 5.61(q)(6)), the contracting agency may enter into an accounting services contract with an individual not employed by the agency or with another entity to: (1) release the agency's payment documents into USAS for processing; or (2) release the agency's USPS documents into USPS for processing; or (3) both of the preceding. The contract is valid only if the Comptroller's office has consented to it.

This paragraph applies only if the contracting agency has properly entered into an accounting services contract with an individual or entity. If the individual or entity releases a payment document into USAS or a USPS document into USPS for processing on or after the effective date of the contract: (1) the release does not constitute the approval or certification of the document; and (2) the contracting agency must comply at all times with the on-going requirements of Section 5.61(q)(6).

In this section, "payment document" means only a payment document that is submitted to USAS electronically.

### **Part 2. Non-Payment Documents.**

#### **Section 2.01. Authorization of Audits After Posting in USAS.**

The Comptroller's office may audit a non-payment document of the contracting agency after the Comptroller's office has posted accounting information in USAS according to the document. The Comptroller's office may specify the criteria for determining the

non-payment documents that will be audited after posting. When the Comptroller's office audits a non-payment document after posting, the Comptroller's office must audit the document with at least the same level of scrutiny as the Comptroller's office would have used during an audit of the document before posting.

The Comptroller's office shall periodically notify the contracting agency about the results of the audits of the agency's non-payment documents after posting.

## **Section 2.02. Sampling.**

The Comptroller's office may use generally recognized sampling techniques to audit the contracting agency's non-payment documents after posting if the Comptroller's office determines the techniques would be cost-effective and promote greater efficiency in processing the documents. When the Comptroller's office uses those techniques, the Comptroller's office may project the results from the sample to similar types of unaudited non-payment documents from the contracting agency. The Comptroller's office may use the projection to estimate the amount of unaudited non-payment documents that were improperly posted. The Comptroller's office may submit that estimate to the governor, the state auditor, and the Legislative Budget Board.

## **Section 2.03. Erroneous Postings.**

If the Comptroller's office determines through an audit of a non-payment document after the document has been posted in USAS that the posting was erroneous, then the Comptroller's office may do one or more of the following: (1) correct or require the contracting agency to correct the posting; (2) implement procedures to ensure that similar erroneous postings are not made in USAS for the contracting agency; (3) report to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor and the Legislative Budget Board the results of the audit; or (4) terminate this contract according to Section 3.06.

# **Part 3. General Provisions.**

## **Section 3.01. Definitions.**

Unless this contract specifically provides otherwise, in this contract:

"Chief administrative officer" means: (1) the appointed or elected individual who is authorized by law to administer a state agency that is not headed by a governing body; or (2) the executive director or other individual with an equivalent title who administers a state agency headed by a governing body. The term includes a chief fiscal officer only if the preceding criteria describes the officer's duties.

"Claimant" means, with respect to a transaction involving the payment or reimbursement of a meal, lodging, transportation or incidental expense: (1) the individual who incurred the expense; or (2) if that individual is unavailable, another individual acceptable to the Comptroller's office.

"Governing body" means: the board, commission, committee, council or other group of

individuals that is collectively authorized by law to administer a state agency.

"Non-payment document" means the paper or electronic document that a state agency submits to the Comptroller's office for the purpose of requesting the Comptroller's office to post or correct certain accounting information in USAS. The term does not include a payment document or a USPS document.

"Payment document" means the paper or electronic document that a state agency submits to the Comptroller's office for the purpose of requesting the Comptroller's office to make a payment on the agency's behalf. The term includes, but is not limited to, a document that uses the appropriated or other funds of a state agency to make a payment to another state agency. The term does not include a USPS document or a non-payment document.

"Payroll document" means the type of payment document that the Comptroller's office requires a state agency to submit when requesting payment of the compensation of state officers and employees or certain other types of payments. The term does not include a USPS document.

"State agency" means a department, board, commission, committee, council, agency, office or other entity in the executive, legislative or judicial branch of Texas state government, the jurisdiction of which is not limited to a geographical portion of this state. The term includes an institution of higher education.

"USAS" means the Uniform Statewide Accounting System.

"USPS" means the Uniform Statewide Payroll/Personnel System.

"USPS document" means the document that a state agency electronically submits to USPS for the purpose of requesting the Comptroller's office to pay the compensation of state officers and employees or to make certain other types of payments. The term does not include a payment or non-payment document.

### **Section 3.02. General Responsibilities of the Contracting Agency.**

The contracting agency and its officers and employees are responsible for:

- Being knowledgeable about the state laws and rules concerning expenditures; and
- Ensuring that the agency's expenditures comply with those laws and rules; and
- Ensuring that for each payment document, USPS document or non-payment document, the agency maintains necessary documentation for proving that the payment or posting in USAS is fiscally responsible, proper and legal; and
- Ensuring that each payment document, USPS document

or non-payment document complies with the processing requirements of USAS.

The Comptroller's responsibility to audit the contracting agency's payment documents, USPS documents and non-payment documents does not relieve the agency or its officers and employees from the preceding responsibilities. The agency and its officers and employees may not submit a document to the Comptroller's office for processing or posting if they have any doubts about the document's legality, propriety or fiscal responsibility. Therefore, they may not simply rely on the Comptroller's audit to prevent a questionable payment or posting from being made or to discover or reverse an invalid payment or posting after that has occurred.

The contracting agency and its officers and employees are responsible for determining the agency's legal authority for making a payment or for posting accounting information in USAS. This determination must be made before the payment or posting occurs, regardless of when the agency's payment document, USPS document or non-payment document is audited.

The chief administrative officer of the contracting agency is responsible for ensuring that the agency and its officers and employees understand and comply with this section. However, the chief administrative officer's failure to fulfill this responsibility does not relieve the agency or its officers and employees from the obligation to comply.

### **Section 3.03. Legal Authority for the Contract.**

The Comptroller's office and the contracting agency are authorized to enter into this contract by TEXAS GOVERNMENT CODE ANNOTATED, Section 403.071(g)-(h) (Vernon Supp. 1998). The contract's subject matter is covered by that statute and TEXAS GOVERNMENT CODE ANNOTATED, Section 403.071(a) (Vernon 1990), and Sections 2103.001-2103.062, 2155.322-2155.323, 2155.327, 2155.382 (Vernon 1998).

An administrative rule adopted by the Comptroller's office or a statute enacted by the Legislature controls to the extent of conflict between the rule or statute and this contract.

### **Section 3.04. Effective Date of the Contract.**

This contract takes effect only if the contract is signed by an authorized individual and the Comptroller's office receives the signed original from the contracting agency. The following are the only individuals who may sign the contract: (1) the chief administrative officer of the contracting agency; or (2) an employee of the contracting agency who has been properly authorized to enter into contracts on behalf of the agency for the expenditure of state funds.

This contract takes effect on the later of: (1) \_\_\_\_\_; and (2) the date specified by the Comptroller's office after the Comptroller's office receives the signed original of the contract.

### **Section 3.05. Duration of the Contract.**

This contract remains in effect indefinitely unless the contract is terminated according to Section 3.06 or the contract no longer complies with state law. This contract is binding on the successors in office or function of the Comptroller's office and the contracting agency. This contract is contingent on the availability of sufficient funds.

### **Section 3.06. Suspension and Termination of the Contract.**

The Comptroller's office or the contracting agency may temporarily suspend this contract and determine the effective date of the suspension if the suspending party ensures that the other party receives written notice of the suspension not later than its effective date. The Comptroller's office or the contracting agency may specify the ending date of the suspension if the specifying party ensures that the other party receives written notice of the ending date not later than that date.

The Comptroller's office or the contracting agency may terminate this contract and determine the effective date of the termination if the terminating party ensures that the other party receives written notice of the termination not later than the 30th day before its effective date.

### **Section 3.07. Amendments to the Contract.**

Neither the Comptroller's office nor the contracting agency may amend this contract unless the amendment is in writing and accepted by both parties. The Comptroller's acceptance of an amendment may be evidenced only by a writing signed by the manager of the Fiscal Services Division or by an individual in the manager's line of supervision. The contracting agency's acceptance of an amendment may be evidenced only by a writing signed by the agency's chief administrative officer or by an agency employee who has been properly authorized to enter into contracts on behalf of the agency for the expenditure of state funds.

### **Section 3.08. Notices.**

A written notice required or authorized by this contract is valid only if it is delivered through interagency mail, the United States Postal Service or express mail or by hand to the address specified by the receiving party. A written notice from the contracting agency must be signed by the agency's chief administrative officer or by an agency employee who has been properly authorized to enter into contracts on behalf of the agency for the expenditure of state funds.

### **Section 3.09. Authority of Signing Individual.**

By signing this contract, the individual whose signature appears below warrants to the Comptroller's office that the individual has legal authority to enter into this contract on behalf of the contracting agency.

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Signature of the contracting agency's chief administrative officer or authorized employee

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Printed name and title of the chief administrative officer or authorized employee

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Date of the signature